

Assembly Bill No. 359

CHAPTER 845

An act to add Sections 14110.55 and 14133.12 to, and to add and repeal Section 14495.10 of, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor October 8, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 359, Aroner. Developmentally disabled persons: health care.

Existing law provides for the licensure and regulation of health facilities, including an intermediate care facility/developmentally disabled—nursing.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services. One of the types of services for which Medi-Cal reimbursement is provided is long-term health care facility services, including services provided by an intermediate health care facility/developmentally disabled—nursing.

This bill would require the State Department of Health Services to establish a pilot program to provide continuous skilled nursing care, as defined, as a benefit of the Medi-Cal program, in accordance with an approved federal waiver to be developed and requested by the department no later than April 1, 2000. The bill would provide that the purpose of the pilot program is to explore more flexible models of health facility licensure to provide continuous skilled nursing care to developmentally disabled individuals in the least restrictive setting. The bill would require that not less than 10 facilities approved by the department would participate in the pilot program, and would exempt those facilities from licensure during their participation in the pilot program.

This bill would authorize the department to enter into contracts for the provision of essential administration and other services, and would exempt these contracts from certain requirements of the Public Contract Code. This bill would also authorize the department to adopt emergency regulations to implement its provisions.

This bill would also require the department to develop Medi-Cal reimbursement rates for services provided to patients needing continuous care in these facilities. The bill would further require the Director of Health Services to apply specified utilization controls to these facilities.

The people of the State of California do enact as follows:

SECTION 1. Section 14110.55 is added to the Welfare and Institutions Code, to read:

14110.55. For the purposes of the pilot program established under Section 14495.10, the department shall develop a reimbursement rate for continuous skilled nursing care services provided by a participating health facility to developmentally disabled individuals who meet the federal waiver eligibility criteria. The reimbursement rate shall be determined in accordance with a methodology that shall be developed by the department. The department may elect to establish individual patient-specific rates.

SEC. 2. Section 14133.12 is added to the Welfare and Institutions Code, to read:

14133.12. (a) The director shall apply utilization controls to continuous skilled nursing care services provided pursuant to the pilot program established under Section 14495.10, including, but not limited to, prior authorization and monitoring by the department. Prior authorization shall ensure that continuous skilled nursing care services are medically necessary, and that the provision of continuous skilled nursing care will avoid a transfer to, or placement at, a higher level of service. Monitoring shall be conducted by the department including, but not limited to, evaluation of quality of life, health, safety, and well-being of the beneficiary, and quality, efficiency, and cost effectiveness of the continuous skilled nursing care services. The department shall consult with the State Department of Developmental Services and regional centers to design monitoring efforts.

(b) Payment of the reimbursement rates established pursuant to Section 14110.55 shall be subject to all billing criteria of the Medi-Cal program and the utilization controls set forth in this section.

(c) This section shall become operative only if the federal waiver identified under Section 14495.10 is approved by the federal Health Care Financing Administration. The director shall maintain a record of the satisfaction of this condition.

SEC. 3. Section 14495.10 is added to the Welfare and Institutions Code, to read:

14495.10. (a) The department shall establish a pilot program to provide continuous skilled nursing care as a benefit of the Medi-Cal program, when those services are provided in accordance with an approved federal waiver meeting the requirements of subdivision

(b). "Continuous skilled nursing care" means medically necessary care provided by, or under the supervision of, a registered nurse within his or her scope of practice, seven days a week, 24 hours per day, in a health facility participating in the pilot program. This care shall include a minimum of eight hours per day provided by or under the direct supervision of a registered nurse. Each health facility

providing continuous skilled nursing care in the pilot program shall have a minimum of one registered nurse or one licensed vocational nurse awake and in the facility at all times.

(b) The department shall submit to the federal Health Care Financing Administration, no later than April 1, 2000, a federal waiver request developed in consultation with the State Department of Developmental Services and the Association of Regional Center Agencies, pursuant to Section 1915(b) of the federal Social Security Act to provide continuous skilled nursing care services under the pilot program.

(c) (1) The pilot program shall be conducted to explore more flexible models of health facility licensure to provide continuous skilled nursing care to developmentally disabled individuals in the least restrictive health facility setting, and to evaluate the effect of the pilot program on the health, safety, and quality of life of individuals, and the cost effectiveness of this care. The evaluation shall include a review of the pilot program by an independent agency.

(2) Participation in the pilot program shall include 10 health facilities provided that the facilities meet all eligibility requirements. The facilities shall be approved by the department, in consultation with the State Department of Developmental Services and the appropriate regional center agencies, and shall meet the requirements of subdivision (e). Priority shall be given to facilities with four to six beds, to the extent those facilities meet all other eligibility requirements.

(d) Under the pilot program established in this section, a developmentally disabled individual is eligible to receive continuous skilled nursing care if all of the following conditions are met:

(1) The developmentally disabled individual meets the criteria as specified in the federal waiver.

(2) The developmentally disabled individual resides in a health facility that meets the provider participation criteria as specified in the federal waiver.

(3) The continuous skilled nursing care services are provided in accordance with the federal waiver.

(4) The continuous skilled nursing care services provided to the developmentally disabled individual do not result in costs that exceed the fiscal limit established in the federal waiver.

(e) A health facility seeking to participate in the pilot program shall provide care for developmentally disabled individuals who require the availability of continuous skilled nursing care, in accordance with the terms of the pilot program. During participation in the pilot program, the health facility shall comply with all the terms and conditions of the federal waiver described in subdivision (b), and shall not be subject to licensure or inspection under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. Upon termination of the pilot program and verification

of compliance with Section 1265 of the Health and Safety Code, the department shall immediately reinstate the participating health facility's previous license for the balance of time remaining on the license when the health facility began participation in the pilot program.

(f) The department shall implement this pilot program only to the extent it can demonstrate fiscal neutrality, as required under the terms of the federal waiver, and only if the department has obtained the necessary approvals to implement the pilot program and receives federal financial participation from the federal Health Care Financing Administration.

(g) In implementing this article, the department may enter into contracts for the provision of essential administration and other services. Contracts entered into under this section may be on a noncompetitive bid basis and shall be exempt from the requirements of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(h) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that becomes effective on or before January 1, 2003, deletes or extends that date.

SEC. 4. Emergency regulations may be adopted as necessary to implement this act, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall be transmitted directly to the Secretary of State for filing and the regulations shall become effective immediately upon filing. Upon completion of the formal regulation adoption process and prior to the expiration of the 120-day duration period of emergency regulations, the adopted regulations shall be transmitted directly to the Secretary of State with the rulemaking file and the certification of compliance as required by subdivision (e) of Section 11346.1 of the Government Code.

